



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R03-OAR-2015-0773; FRL-9944-73-Region 3]

**Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania;
Attainment Plan and Base Year Inventory for the North Reading Area for the 2008 Lead
National Ambient Air Quality Standards**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a state implementation plan (SIP) revision submitted by the Commonwealth of Pennsylvania (Pennsylvania). The revision demonstrates attainment of the 2008 lead national ambient air quality standards (NAAQS) in the North Reading 2008 lead nonattainment area (North Reading Area or Area). The attainment plan includes the base year emissions inventory, an analysis of reasonably available control technology (RACT), reasonably available control measures (RACM), and reasonable further progress (RFP), modeling demonstration of lead attainment, and contingency measures for the Area. EPA is approving Pennsylvania's lead attainment plan with the base year emissions inventory for the North Reading Area as a revision to Pennsylvania's SIP in accordance with the requirements of the Clean Air Act (CAA).

DATES: This final rule is effective on [insert date 30 days after date of publication in the Federal Register].

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA-R03-OAR-2015-0773. All documents in the docket are listed in the www.regulations.gov website. Although listed in the electronic docket, some information is not publicly available, i.e.,

confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available through www.regulations.gov or may be viewed during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the Commonwealth's submittal are available at the Pennsylvania Department of Environmental Protection, Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Ellen Schmitt, (215) 814-5787, or by e-mail at schmitt.ellen@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On January 11, 2016 (81 FR 1136), EPA published a notice of proposed rulemaking (NPR) for the Commonwealth of Pennsylvania. In the NPR, EPA proposed approval of a revision to Pennsylvania's SIP for the purpose of demonstrating attainment of the 2008 lead NAAQS in the North Reading Area. The formal SIP revision was submitted by Pennsylvania on August 12, 2015.

On November 12, 2008 (73 FR 66964), EPA revised the lead NAAQS, lowering the level from 1.5 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$) to $0.15 \mu\text{g}/\text{m}^3$ calculated over a three-month rolling average. Following promulgation of a new or revised NAAQS, EPA is required by the CAA to designate areas throughout the United States as attaining or not attaining the NAAQS; this designation process is described in section 107(d)(1) of the CAA.

On November 22, 2010, EPA designated Alsace and Muhlenberg Townships and the Laureldale Borough, all of which are located in Berks County, Pennsylvania, as the North Reading Area for its nonattainment status with the 2008 lead NAAQS. 76 FR 72097. The designation of the North Reading Area as nonattainment for the 2008 lead NAAQS triggered requirements under section 191(a) of the CAA, requiring Pennsylvania to submit a SIP revision with a plan for how the Area will attain the 2008 lead NAAQS, as expeditiously as practicable, but no later than December 31, 2015.

Section 179(a)(1) of the CAA establishes specific consequences if EPA finds that a state has failed to submit a SIP or, with regard to a submitted SIP, if EPA determines it is incomplete or if EPA disapproves it. Additionally, any of these findings also triggers an obligation for EPA to promulgate a federal implementation plan (FIP) if the state has not submitted, and EPA has not approved, the required SIP within 2 years of the finding pursuant to section 110(c) of the CAA. On February 25, 2014, the EPA issued a finding that Pennsylvania failed to make the required nonattainment SIP submission for the North Reading Area. 79 FR 10391. With this final approval by EPA of Pennsylvania's North Reading attainment plan SIP in accordance with section 172(c) of the CAA, the Agency no longer has any obligation to issue a FIP for the North Reading Area in accordance with section 110(c) of the CAA.

II. Summary of SIP Revision

On August 12, 2015, Pennsylvania through the Department of Environmental Protection (PADEP) submitted an attainment plan for the North Reading Area as a SIP revision which includes a base year emissions inventory, an attainment demonstration, an analysis of RACM and RACT, provisions for RFP, and contingency measures.

The SIP revision also includes paragraph 3 of a consent order and agreement (COA), dated June 15, 2015, between Exide Technologies (Exide) and PADEP and paragraphs 5 and 22 of a COA, dated June 12, 2015, between Yuasa Battery, Inc (Yuasa) and PADEP. EPA's analysis of the submitted attainment plan includes a review of these elements for the North Reading Area.

EPA's approval of the attainment plan is based on the Agency's finding that the Area meets all lead NAAQS attainment plan requirements under CAA sections 172, 191, and 192. Due to monitored ambient air quality violations in early 2013, before a major source of lead began idling, the Area did not attain the NAAQS, over 36 consecutive three-month periods, by December 2015, the attainment date. However, as a result of implementation of PADEP's August 12, 2015 SIP revision, EPA and PADEP expect the North Reading Area will attain the 2008 lead NAAQS on the basis of 2014-2016 ambient air quality data. EPA is approving the base year emissions inventory submitted with the plan, as well as the RACM/RACT and RFP analyses, the attainment demonstration including modeling, and the contingency measures for the North Reading Area.

Other specific requirements of the SIP submittal attainment plan for the North Reading Area and the rationale for EPA's proposed action are explained in the NPR and its accompanying Technical Support Documents (TSDs) and will not be restated here.¹ No public comments were received on the NPR.

¹ In the Control Strategies, Reasonable Further Progress, and Contingency Measures TSD that accompanied EPA's NPR, published in the **Federal Register** on January 11, 2016 (81 FR 1136), EPA inadvertently made a misstatement when summarizing a small portion of a COA between PADEP and Yuasa Battery, Inc. The statement made in the TSD was "Yuasa shall conduct stack testing on all the stacks listed above in 2020, and thereafter in any year that is divisible, with remainder, by five" when it should have stated "Yuasa shall conduct stack testing on all the stacks listed above in 2020, and thereafter in any year that is divisible, without remainder, by five." This error was inadvertent and in no way alters EPA's conclusion or analysis regarding reasonableness of Pennsylvania's RACM for the North Reading Area.

III. Final Action

EPA is approving the lead attainment plan for the North Reading Area and paragraph 3 of the COA between PADEP and Exide and paragraphs 5 and 22 of the COA between PADEP and Yuasa, as submitted on August 12, 2015 as a revision to the Pennsylvania SIP. EPA has determined that the SIP meets the applicable requirements of the CAA. Specifically, EPA is taking final action to approve Pennsylvania's August 12, 2015 SIP submission which includes the attainment demonstration, base year emissions inventory, RACM/RACT and RFP analyses, and contingency measures.

With the EPA's final approval of Pennsylvania's North Reading attainment plan submittal, EPA no longer has any obligation to promulgate a FIP for the North Reading Area pursuant to sections 110(c) or 172(c) of the CAA.

IV. Statutory and Executive Order Reviews

A. General Requirements

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);

- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal

governments or preempt tribal law.

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[Insert date 60 days after date of publication in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action approving Pennsylvania's SIP revision containing the attainment plan and base year inventory for the 2008 lead NAAQS in the North Reading Area may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Lead.

Dated: March 24, 2016.

Shawn M. Garvin,
Regional Administrator,
Region III.

40 CFR part 52 is amended as follows:

PART 52 – APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 et seq.

Subpart NN -- Pennsylvania

2. In § 52.2020, the table in paragraph (e)(1) is amended by adding an entry for the attainment plan for the North Reading nonattainment area for the 2008 lead national ambient air quality standards at the end of the table to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(e)***

(1) ***

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
* * * * *				
Attainment Plan and Base Year Emissions Inventory for the North Reading nonattainment area for the 2008 lead NAAQS	North Reading Area	8/12/15	<u>[Insert date of publication in the Federal Register]</u> <u>[Insert Federal Register citation]</u>	See §§ 52.2036(z) and 52.2055(b)

* * * * *

3. Section 52.2036 is amended by adding paragraph (z) to read as follows:

§ 52.2036 Base year emissions inventory.

* * * * *

(z) EPA approves as a revision to the Pennsylvania state implementation plan the 2010 base year emissions inventory for the North Reading, Pennsylvania nonattainment area for the 2008 lead NAAQS. This SIP revision was submitted by the Secretary of the Pennsylvania Department of Environmental Protection on August 10, 2015. This submittal consists of the 2010 base year emissions inventories for all relevant sources in the North Reading nonattainment area for the pollutant lead (Pb).

4. Section 52.2055 is amended by adding paragraph (b) to read as follows:

§ 52.2055 Control strategy: Lead.

* * * * *

(b) EPA approves the state implementation plan for the North Reading, Pennsylvania nonattainment area for the 2008 lead NAAQS. This SIP revision including reasonably available control measures, reasonably available control technology, contingency measures, and attainment demonstration was submitted by the Secretary of the Pennsylvania Department of Environmental Protection on August 10, 2015.

[FR Doc. 2016-07993 Filed: 4/7/2016 8:45 am; Publication Date: 4/8/2016]